

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, November 27, 2012

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Scot Sasser, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Finance Director Tony Bryan and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Pauline Brooks McGuiness

Pauline Brooks McGuiness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None

5. PRESENTATIONS

None

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Louis Marchelos mentioned the item on the Consent Agenda for the New Year's Eve party the City was having downtown. He thanked Eleanor from the Town for calling him on November 2nd to give him a heads up about this item. He had done his own application and paid his own fee. He felt closing down eastbound Commercial Boulevard at such an early time adversely affected the area businesses, and he asked for it to be closed later, as evening dining was at 9:00 p.m. at his restaurant. He also

spoke on the sewer ordinance, hoping the resolution reached was favor for the restaurants. He announced Athena By The Sea would be opening the coming weekend.

Tom Carr discussed the proposed sewer increase, recalling in 2009, the rate for 12,000 gallons of water was \$37.00; in 2012, for 11,000 gallons, it was \$49.00. He recalled his past comments on the inequity of the single meter and the dual meter service, and those people with single meters did not fare well. He urged the Commission to take more time to consider a more equitable system.

Bill Vitollo mentioned the proposed parking lot sign in the downtown parking lot, noting \$50,000 was an excessive cost, and the height of 33 feet far exceed the 15 feet required by code. Canvass was not a good choice for the cover, and there was no need for a roof on the structure. He went on to state someone tried to burglarize his house while he slept, and it was more necessary for the Town to install cameras to monitor activities than build a parking lot sign. Along with plate readers, pedestrian cameras should be installed. He had done his share as a resident to secure his home with cameras, lights and an alarm, and it was time for the Town to do its part by the installation of the long promised cameras to protect the City's residents and businesses.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

7. PUBLIC SAFETY DISCUSSION

a. BSO Monthly Report – October 2012 (Chief Oscar Llerena)

Chief Llerena discussed the license plate reader system. The goal was to utilize Law Enforcement Trust Funds (LETf) seized and forfeited from drug dealers and other criminals to pay for the system. Under the contract between BSO and the Town, he had to have approval from his chain of command before approaching the Commission for the funds. He stated the transition turmoil at the Sheriff's Office has delayed the approval from his chain of command, though he spoke with someone earlier in the day that gave him a verbal promise to give approval in several days. Once this was done, he would give it to the Town Manager, who would then have it placed on the agenda. He indicated the system would be owned by the Town.

Vice Mayor Sasser thought the situation had been ongoing without resolution, though it sounded like Chief Llerena had overcome his obstacles, questioning what else stood in the Town's way after BSO granted approval. He recalled issues with where the cameras could be placed, etc.

Town Manager Hoffmann stated the next step would be to bring an item to the Commission for approval of the use of LETf funds. The funding issue Chief Llerena alluded to was the current estimates for the system was about \$210,000 which exceeds the amount of available LETf funds (\$180,000).

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Town Manager Hoffmann advised the Town had to put out an RFP for the system unless we found it possible to piggyback on another city's contract. She reminded the Commission that the Town was not permitted to install cameras on the FDOT right of way or light poles. The Town would have to get an agreement with private property owners to allowing the Town to mount the cameras on their properties. Thus, BSO staff would approach various property owners to sign the agreements. She believed by the time the Town went out with an RFP, got the funding in place and all the agreements signed, they were looking at spring 2013 before there was a camera system ready to install.

Commissioner Dodd wished to confirm the appropriate sites had been identified for the cameras, as he had been advocating for a camera system for almost three years. He learned Lighthouse Point currently had some 28 cameras installed and were proposing to install 18 more, due to the effectiveness of catching criminal subjects. The cameras might not stop the crime, but it gave police the tools to catch the culprits. He suggested, if the LETF lacked sufficient funds, the Town should front the rest of the funds until such time as the more criminals were caught and their monies and goods confiscated to top up the coffers. He hoped spring would not become summer. Commissioner Dodd appreciated the camera system would have to be integrated with all the other systems on the poles, and urged Town staff to make every effort possible to get the Town's camera system up and running.

Commissioner Vincent asked if the Town could supersede the chain of command approval.

Chief Llerena reiterated the chain of command approval was a part of the Town's contract with BSO regarding such matters. In order for him to utilize LETF funds, he had to have the BSO executive staff's approval. He noted the way the State Statute read, only the Police Chief could ask for the funds and only the Commission could approve it. It was a formality BSO incorporated in its agreement with the Town.

Commissioner Vincent questioned if the Town was permitted to infuse dollars into the LETF funds.

Town Manager Trevarthen replied it would be a permissible use of Town funds.

Mayor Minnet felt the installation of a security camera system in the Town needed to be prioritized higher on the list of goals the Town needed to accomplish as soon as possible.

Chief Llerena recommended the Town not use mobile license plate readers in patrol cars as BSO had; rather it should focus on installing fixed readers because the Town only had three entry points by car.

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In the interim, Mayor Minnet questioned what was to be done about the increasing crime in the Town, knowing it would have to be a collective effort on the part of the Town's police and the rest of the Town.

Chief Llerena stated the best advice he could give was if a member of the community was suspicious of any activity, they should call the police. The best way to deal with the situation was neighbors involved in the community. He noted the number of arrestees who were Town residents had increased exponentially, though they were not long term residents.

Mayor Minnet urged everyone to remain cognizant of their surroundings, and they should call the police if they saw something that seemed out of the ordinary.

Chief Llerena said for nonemergency calls, the number to call 954-786-4200, and if there was an ongoing problem and they needed to reach him at the office, the number was 954-642-4240. He reminded residents one of the services the police department offered was vacation house watch; that is, if a resident was going on vacation, they should let the police know and deputies would do random checks on the house. The police did security surveys and posted them on the Town's website, and suggested ways to deter criminal activity from their homes.

Vice Mayor Sasser assumed the prices Chief Llerena quoted for the camera system were for the fixed cameras and not the mobile ones.

Chief Llerena answered absolutely. The mobile cameras were a great tool, but not in the application of a system compatible with the Town's needs.

Vice Mayor Sasser knew a hot issue for the Commission was vacation rentals and residential neighborhoods, and he was interested to hear if Chief Llerena noticed any crime trends that short-term rentals brought more crime to the Town.

Chief Llerena responded it was mostly anecdotal once someone was arrested. Statistics were cut and dry and seldom told the full story. The measure of success was who the police arrested and what they were arrested for, and what was being done to prevent additional crime. One of their methods was to ask arrested criminals why they committed the crime and why they did so in the Town, and they used those answers to understand trends, patterns, etc. He said one trend they noticed was that the locations at which they arrested someone normally had other code issues.

Vice Mayor Sasser asked Town Manager Hoffmann to work with Chief Llerena to address such trends.

Commissioner Dodd made a motion to accept the report. Commissioner Vincent seconded the motion. The motion carried 5-0.

b. VFD Monthly Report – October 2012 (Chief Judson Hopping)

Commissioner Vincent made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

c. AMR Monthly Report – September 2012 (Chief Brooke Liddle)

Commissioner Dodd made a motion to accept the report. Commissioner Vincent seconded the motion. The motion carried 5-0.

8. TOWN MANAGER REPORTS

a. Chamber of Commerce Monthly Report

Paul Novak, representative for the Chamber, read the Chamber's Third Quarter report, into the record. He mentioned Christmas-By-The-Sea would be different this year, as there would be no parade, but they would have the fire truck bringing Santa Claus, as well as a Christmas market and other entertainment.

Town Manager Hoffmann stated the date of the event was Wednesday, December 12, 2012, 6:00 p.m. to 9:00 p.m. She indicated the event would have a kids' section, where children could make Christmas crafts, as well as a Christmas cookie decorating area.

Mr. Novak mentioned the Chamber's first of the month Saturday cleanup on the beach was back on schedule for the first Saturday of December.

Vice Mayor Sasser asked if there was any update on the Christmas tree situation.

Town Manager Hoffmann stated she reported on the situation with the Christmas tree in her report, stating Town staff explored numerous options and concluded the best option was to use the old tree one more time, though the cost to get it ready was close to \$5,000. New lights would be placed on the tree and removed at the end of the season, as the existing lights did not work well, and there would be new ornaments added. She said at the end of the season, the tree would be taken down by Town staff and thrown out, probably but staff would save the frame as that might save the Town money when a new tree was purchased.

Vice Mayor Sasser questioned if the new lights and ornaments would be purchased by the Town.

Town Manager Hoffmann answered no, they would be rented and returned at the end of the season. The new tree would come with lights and the ornaments were bought separately. She indicated in speaking with the various tree companies, they all informed her the Town's conditions were the harsh, as very few cities had a tree next to the beach. They suggested the Town have the tree branches custom made and galvanized to resist the rust that occurred on the existing tree. She mentioned the current tree lasted the Town a lot longer than tree suppliers expected. Trees usually

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lasted seven to eight years in a normal environment, and not more than five in those like the Town's; the current tree had lasted eight years. It should be realized that any tree the Town purchased would have an annual maintenance cost associated with it if the tree was to last, and her research showed her that many cities were paying much larger sums than the Chamber had been paying to maintain the existing tree.

Mr. Novak believed it was possible to get contributions to purchase the tree, as the first tree was paid for with contributions.

Vice Mayor Sasser saw the Christmas event as a joint venture between the Town and the Chamber, and he wished to make sure all businesses were invited to participate and not just Chamber members. He questioned what steps were being taken to ensure all local businesses were being afforded the ability to take part in some form or fashion.

Mr. Novak thought all businesses were included in the event.

Town Manager Hoffmann indicated this was not the case, as the Chamber called some of its members to ask if they wished to be involved but had not called all businesses. She called a variety of Town associations, including the Civic Association, the Women's Club, the Property Owners' Association, the Garden Club, etc. and invited them to the participate in the event. The Town and Chamber had not reached out to every business, and as this was the first year for the Christmas market; they at the size it currently had 12 booths and needed to see how successful it was. The market could be expanded for the 2013 event if it proved successful at the 2012 event.

Vice Mayor Sasser respectfully disagreed and thought the market should have as many businesses as those wanting to participate, and participation should not be based on whether one was a member of the Chamber or selected by Town staff to participate. This was a town wide event and all businesses should be offered the opportunity to be a part of it.

Mr. Novak stated all the businesses along Commercial Boulevard were canvassed to participate in the Christmas market by Mr. McClintock and Chamber staff, and many businesses declined participation. There was no case of handpicking involved, and all businesses were welcome to participate and, as most businesses were located along Commercial Boulevard, one might say most businesses were canvassed.

Vice Mayor Sasser stated if this was really the case, then he was satisfied, but it did not sound as though the efforts were in tandem with affording all businesses the chance.

Mr. Novak remarked Mr. McClintock told him he went door-to-door along Commercial Boulevard inviting businesses to participate in the Christmas market.

Vice Mayor Sasser felt it was an issue with every Town event, as someone got left out, and he just wanted to know what steps were taken to include the Town's businesses. He asked Mr. Novak to convey his appreciation to everybody at the Chamber for the

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P&L statement, as this was exactly what he had been requested, as it allowed the Commission to compare the numbers and not just walk-ins.

Commissioner Brown asked if the donations for the first Christmas tree was based on a formal fundraising effort with specific guidelines, or was it a case of a group of people coming together informally and contributing to purchase the tree. He wished to see a formal fundraising drive for the new Christmas tree that could be ongoing through the year.

Mr. Novak replied the fundraising for the first tree was informal and agreed the fundraising for the new tree should be more formalized, a task the Chamber could undertake, such as a collection pot at its Taste of the Beach event, etc. He would bring the matter up at the Chamber's next directors meeting.

Commissioner Vincent concurred with Vice Mayor Sasser's desire for all local businesses to be afforded the ability to participate in the Christmas market event. The Town had a list of the BTRs and knew who its businesses were, and Town staff should reach out to them, sending them notices of the upcoming events in which they could participate. He believed this to be a policy decision.

Mayor Minnet remarked Town staff and the Chamber were challenged with many obstacles regarding the Town's annual Christmas event, and she thanked Town staff for pulling it all together, and she appreciated the cooperation between Town staff and the Chamber. She was sure in 2013 things would run smoother.

Mr. Novak felt sure now that the Town and the Chamber had joined forces, the Christmas event would be better.

The report was accepted with no further discussion.

b. September 2012 Financial Report (Finance Director Tony Bryan)

Town Manager Hoffmann stated the September Financial Report had been delayed as it was the last month of the fiscal year and staff had to wait for all prior year most of the revenues and expenditures to come in and be booked.

Finance Director Bryan cautioned that the report was not complete because they were still closing the fiscal year out, and the numbers could change slightly before the year was closed out.

Mayor Minnet asked what portion of the Communication Tax was the Town's revenue; she believed the tax was about \$320,000.

Town Manager Hoffmann noted the Town collected \$376,000 in 2012, and this was money that came to the Town from the state.

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Mayor Minnet explained her reason for bringing the matter up was the State Legislature was currently looking at eliminating cities from getting those monies and, and it was a considerable amount of money. At both the Florida League of Cities meeting and the Broward League of Cities meeting, they discussed what elected officials needed to do to advocate that the State Legislature did not do that. She said the bottom line was it would affect taxpayers, increasing their taxes, as municipalities would have to find other sources of revenue to cover the lost \$375,000. She distributed binders to the Town Commission from the Florida League of Cities entitled "Strengthening Florida Cities Through Effective Advocacy." There would be ten new House Representatives that were freshmen and coming into the State Legislature, and it was important to educate them about local issues: home rule, and the effects of unfunded mandates.

Commissioner Dodd made a motion to accept the report. Commissioner Vincent seconded the motion. The motion carried 5-0.

c. Town Manager's Report

Town Manager Hoffmann reviewed her report, highlighting the following:

- Insurance for neighborhood projects

Commissioner Vincent wished to confirm the subject of discussion was the Terra Mar property.

Town Manager Hoffmann responded that the gate under discussion was to be in Bel-Air.

Vice Mayor Sasser commented the insurance matter was a big deal, as in Terra Mar on a fairly regular basis, someone ran into the gate arm. Perhaps someone from Bel-Air could contact someone at Terra Mar to find out if they could piggyback on their insurance policy, or contact the insurance agent used by Terra Mar.

Town Manager Hoffmann recalled being advised by Mr. Malkoon that they spoke to Terra Mar's insurance broker.

Edmund Malkoon, vice president of the Bel-Air Association, stated Terra Mar had liability not replacement coverage. They spoke with the broker who wrote the policy for Terra Mar and, for some reason, they claimed to have written the policy, as Terra Mar had 1,200 homeowners, while Bel-Air had only 200 homes; the latter was too small.

Vice Mayor Sasser wished to make sure the Town was not liable for the replacement of the Bel-Air gate

Town Manager Hoffmann stated the agreement between the Town and Bel-Air would be modified to say the gate would be covered in the Town's insurance but there would be a deductible, the cost of which would be the Bel-Air Civic Association's. Thus, the agreement would state Bel-Air had to reimburse the City for the deductible.

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Mayor Minnet expressed having some real concerns with the proposed agreement, as this was creating a new set of circumstances. She had not been in agreement with doing it for Terra Mar, and she was not comfortable doing it for Bel-Air.

Commissioner Brown reiterated everyone should go and look at the proposed locations for the subject gates, as it would impress upon them the need for an enforceable agreement that did not put the Commission on the hook. Bel-Air should agree to pay for any damage, repair or maintenance to the gate once it was installed; thus other than contributing to the cost, the Town had no financial responsibility for the gate after its installation.

Town Manager Hoffmann wished to clarify Commissioner Brown was advocating for no insurance and Bel-Air was guaranteeing they were liable for the cost of any gate repair, replacement, etc.

Commissioner Vincent wanted to know how the Town's insurance would be affected if numerous claims for the gate had to be filed to have it repaired.

Vice Mayor Sasser thought it was important for the Town to do things for the residents, but he had no wish to be on the hook for replacement; Terra Mar took care of their own gate replacement. Perhaps Mr. Malkoon and others could speak with Terra Mar to find out how much they usually put away from the maintenance dues toward that possible cost. He believed Bel-Air needed liability insurance like that of Terra Mar, and they could take care of any gate replacement that was required.

Commissioner Dodd remarked if the liability insurance was economically outrageous for Bel-Air, he had no objection to the Town covering that insurance, providing the expense for the additional premium was paid by Bel-Air. The Town should not be responsible for gate replacement.

Mayor Minnet summarized the motion would be to have the Town Manager amend the terms of the agreement between the Town and Bel-Air.

Town Manager Hoffmann thought the Commission wished the language in the agreement changed to state that Bel-Air would reimburse the Town for any additional cost to provide the liability insurance, and Bel-Air would be responsible for the replacement of the maintenance and replacement of the gate.

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

Town Manager Hoffmann reviewed that portion of her report having to do with regulating the use of generators on construction sites.

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Commissioner Vincent mentioned receiving calls on the subject matter, noting that because he was in the construction business, he was a fan of temporary power hookups on new properties such as homes. Thus, he would like to see something put in the Town's ordinance that for any new homes, a temporary power pole should be installed, and eliminate the need for a generator on the site.

Commissioner Dodd concurred with Commissioner Vincent's views, generators on a construction site in a city were unacceptable.

Mayor Minnet understood the generator on the property in question ran on weekends and holidays, 24 hours a day, and though the code did not allow them to do so on Sundays and after hours, so code staff needed to address the situation. She did not see the issue as high priority, and it would require an ordinance to change the code.

Commissioner Dodd agreed, stating it could be included in the next round of code modifications.

Town Manager Hoffmann mentioned there were two items not reflected in her report. The first was that the prior Commission voted for the new bus shelters going in to be green, noting two of them were to be installed on west Commercial. Hugh Johnson from Architectural Alliance recommended the color be changed to black, as with all the other color that would be involved in the streetscape, the benches would not clash with the surroundings.

Commissioner Dodd though black would make the benches hotter, and questioned which color was easier to keep clean due to the effects of salt air, etc.

Mayor Minnet had seen both colors, and noticed the green had a tendency to fade.

Town Manager Hoffmann observed the Commission seemed undecided as to the color change but had no objection to Town staff's decision if it were to change from green to black.

She went on to state the Barefoot Wine Company sponsored around 12 beach cleanups throughout the country each year, and Mayor Minnet suggested Town staff contact them to see if they were willing to do one in the Town. Town staff did as directed, and Barefoot indicated they were interested in doing a beach cleanup in the middle of January, as they were scheduled to have a corporate meeting in Fort Lauderdale. The usual process was Barefoot had one of the local restaurants that sold their wine to have a picnic, Barefoot paid for everything; however, they wished to do the beach clean up on a Wednesday afternoon in the middle of January. This was a special event and she would provide the Commission with more details at the next Commission meeting, but wished to acquaint the dais with the concept.

Vice Mayor Sasser noticed the Town Manager's report contained no update on the coral reef.

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Town Manager Hoffmann replied the Army Corp finally responded to multiple communications from her that they were fine with the location where it was, though it was placed a little differently than the permit allowed. They were satisfied with the monitoring report, and the two buoys were not in the water at present. The Town just made a payment to Dr. Goreau's group, as they needed the funds to repair the damaged buoy and replace something on the second buoy for it to be more stable in high seas.

Vice Mayor Sasser wondered when the Commission would receive pictures.

Town Manager Hoffmann responded they were putting together a flash drive of their video, which she watched on their online report and did not find it exciting. Town staff could show it at a Commission if the dais so directed.

Vice Mayor Sasser wished to see the video, so he could have a picture in his mind of how the project started. It did not sound as though it was wise for the Town to go out with huge press releases and market the project as yet.

Town Manager Hoffmann concurred.

Vice Mayor Sasser mentioned the Town receiving numerous complaints from residents in both the north and south about Florida Power & Light (FPL) regarding power outages due to the last storm. The residents were receiving a consistent message from FPL employees that the Town's equipment in the residential neighborhoods was old and outdated and needed to be updated. He was aware Town Manager Hoffmann had been trying to get in touch with FPL, and he asked if she heard from FPL and what was the plan.

Town Manager Hoffmann explained FPL blamed the outages on trees and landscape, and she asked them to provide the Town with an assessment report on the condition of all the Town's transformers. She mentioned transformers were blowing even when there was no storm.

Vice Mayor Sasser asked Town Manager Hoffmann to keep the Commission updated on the progress to determine if additional pressure was required from a higher level.

Commissioner Dodd commented if the trees were the problem, FPL had a contract with tree trimmers to keep the lines clear, so the situation was not for the homeowner to rectify, but FPL's.

Mayor Minnet urged Commissioners to speak to the FPL representatives at the League of Cities to apply pressure to have the situation rectified.

Commissioner Vincent asked Town Manager Hoffmann to pass the FPL contact information to the members of the Commission, as he was willing to keep up the calling to get the situation fixed.

Mayor Minnet felt the video of the coral reef should be shown as a form of follow up, as residents were paying for the project and needed to see what had transpired.

9. TOWN ATTORNEY REPORT

None

10. APPROVAL OF MINUTES

None

11. CONSENT AGENDA

Consent agenda items 11a, 11b, 11c and 11d were pulled for discussion.

Commissioner Dodd made a motion to approve items 11e and 11f on the Consent Agenda. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

- a. Project Management Contract with Flynn Engineering Services for the A1A Parking Lot and Bougainvilla South Parking Projects (Assistant Town Manager Bud Bentley)

Commissioner Dodd asked Assistant Town Manager Bentley was recommending Flynn to oversee the project rather than the Town's project manager, Bill Cole.

Assistant Town Manager Bentley advised Mr. Cole did the, and he was currently doing project administration and management for the Bougainvilla drainage project.

Town Manager Hoffmann added Mr. Cole would be responsible for the Public Safety Parking Lot Project, the Minto temporary parking lot, and the both Commercial Boulevard projects. Municipal Services Director Don Prince would administer the 19th Street Drainage project and the swale restoration project. The Town had numerous projects going at the same time, and she felt strongly that the outside project manager was needed.

Assistant Town Manager Bentley concurred, stating the subject project would be piggybacked off a County Project with unit-based pricing, which meant the Town needed an inspector more on site than usual to tally receipts, etc.

Vice Mayor Sasser sought further clarity on the difference in responsibilities/activities of Flynn versus those of Mr. Cole.

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Assistant Town Manager Bentley explained when he was the Town's project manager on the A1A project, it was impossible for him to act as an inspector on the job, certifying the contractors' pay requests that have to be tracked back and compared to the work done, and verified and approved for payment, interact with the public on complaints, etc. He noted the Town was undertaking numerous projects in a short period of time, and the ability to complete those via an allocation of resources. The Town's personnel resources were being assigned as the Town Manager saw fit to accomplish the goals. Those resources were very limited.

Vice Mayor Sasser asked if it was fair to say that the tasks Town staff was requesting the Commission approve to be covered by Flynn could be done by Mr. Cole if that was the only project he was working on.

Town Manager Hoffmann clarified one set of duties pertained to contract administration, and the other set had to do with field inspections. Mr. Cole's primary responsibility was contract administration, including preparing work authorizations, giving the go ahead to start a project, reviewing progress to see if the contractor was on schedule, on budget, reviewing bills submitted by the contractor, the accuracy of those bills, and had the contractors actually accomplished the work they were billing the Town for, and was it consistent with the contract in place, handle contract amendments, change orders, lien releases prior to payment, examining contractor insurance, ensuring contractors' bonds were in place, and their paperwork was in order, citizen interaction that could be sizable on the large projects, communication to Town administration as to what was going on with the project. She indicated, specific to the Bougainville Drive project, part of the design contract called for Flynn, the designer, to do field inspections to ensure the drainage was being installed properly. That was not included in the design contract for those two projects, nor was it included in the East Commercial project, but it was included in the West Commercial project. She noted it was her miss on the East Commercial project, as she realized the need to build it into the contract as more of the projects arose.

Vice Mayor Sasser thought the Town Commission needed to look at the situation more holistically to get a better idea of where Town staff was, as they appeared all over the place. He was not objecting to Town staff's recommendation as to the subject project, but he required further information to feel more comfortable with the decision.

Town Manager Hoffmann pointed out the Town would do almost \$6 million in projects in the current fiscal year, almost ten projects, and one person could never conceivably do all that work.

Vice Mayor Sasser believed this was part of what the Town Commission needed to review, not only where was the Town spending its money, but with the numerous projects going on, there might be a need for the Town to hire someone temporarily to help Mr. Cole. By approaching it more holistically, and approach it with more strategy on how the projects were divided, it might be easier to manage or administer and more cost efficient to do it that way.

Commissioner Vincent felt it was to the Town's advantage to having the person of record that designed the project overseeing the project. He knew of no project manager that could handle \$6 million worth of work without having up to three assistants. That would cost the Town more, reiterating he was in favor of paying the engineer of record to oversee the project to help with the workload.

Commissioner Brown expressed concern if the subject projects got started and were finished on time or ahead of schedule, as they entailed tearing up roads, and the work should be done right the first time. If this meant having to hire Flynn Engineering or another entity to supplement staff to ensure these outcomes, he supported the action.

Mayor Minnet stated her disappointed the project management fees were not included, and unexpected issues kept arising with regard to the subject projects that led to delays on certain things, but the Town needed to move forward with these projects, as they were important for the integral picture of the community. Thus, she was in favor of approving Town staff's recommendation to move the project forward.

Vice Mayor Sasser commented if the Town Commission approved the subject recommendation, he wished the Commission to explore if it was better to get an outside person to help with all the projects rather than deciding as projects progressed.

Mayor Minnet agreed with every Town project, there needed to be the consideration as to whether a project manager would be needed.

Assistant Town Manager Bentley expressed confusion regarding the Commissioners' comments, as when the Town entered into continuing contracts some 15 months ago, project management was one of the services solicited, and the Commission approved contracts with several firms to provide project management. It was never forgotten about. The service was normally secured, closer to the actual construction. For an organization of the Town's size, the way it was being done currently, was the most efficient way to proceed.

Commissioner Vincent made a motion to approve Item 11a. Commissioner Brown seconded the motion. The motion carried 5-0.

b. New Year's Eve Celebration Special Event Application for 101 Ocean, Aruba's, and Village Grille (Assistant Town Manager Bud Bentley)

Vice Mayor Sasser noted a business owner requested during public comments if east Commercial Boulevard could be closed a little later, and wanted to know if this would be a problem for other businesses.

Assistant Town Manager Bentley replied the time of closing had been discussed in depth both in 2011 and 2012, and the opinion he and the police shared was that it would be ill advised to plan a road closure at eight o'clock. The crowds would be so

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significant prior to that, they would have to do an ad hoc, unplanned road closing, and this was messy and put people at risk. The process to get roads cleared to execute a closures took several hours.

Vice Mayor Sasser wondered if there was a way for the Town to allow signs or markers to guide people to parking by the pier.

Assistant Town Manager Bentley pointed out the pier parking had dedicated access through the alley, both in and out, and the arrangement in 2011 was if they wanted to use that access way, they were required to have someone posted at the barricade to indicate they had pier parking available. The barricade could be posted at El Mar.

Vice Mayor Sasser asked what Aruba was doing.

Assistant Town Manager Bentley replied Aruba would provide the public valet on Commercial Boulevard and El Mar.

Mayor Minnet clarified drivers would come off of A1A, make a right-hand turn at the vacant shop, soon to be Gilligan Sub Shop, and there would be a sign that said valet. On El Mar, they would see the valet sign next to the shop and Commercial. However, Mayor Minnet pointed out the backup stated "Aruba valet only" and that needed to be changed, as it could not be restricted to Aruba only.

Assistant Town Manger Bentley concurred, stating the correction would be made, and the sign would say "public valet" as it was a public access. If the pier wished to provide parking, they were welcome to do so, as parking was insufficient and Town staff wanted all parking areas to be full.

Commissioner Dodd wondered if the events should run simultaneously, or did the Town want one applicant to run for one year and the other the next year. Historically, he recalled one applicant did not want competing bands at the same time. He asked if either of the applicants had any outstanding code violations.

Assistant Town Manager Bentley replied neither applicants had outstanding code violations.

Commissioner Dodd made a motion to approve Item 11b with the change for the application to state "public valet". Commissioner Vincent seconded the motion. The motion carried 5-0.

- c. Athena By The Sea's New Year's Eve Special Event Application (Assistant Town Manager Bud Bentley)

Commissioner Dodd asked if the applicant had any outstanding code violations.

Assistant Town Manager Bentley answered no.

Commissioner Dodd inquired if the violation with the tiki hut had been resolved.

Assistant Town Manager Bentley replied the wooden structure was currently on the pier property, that it was an ongoing violation, and was incurring fines daily.

Commissioner Dodd wished it brought to the Town Commission's attention they were being asked to approve an event that would raise money for an applicant with outstanding code violations. Though he understood the application was from Athena, he was unsure how the businesses were tied together if they were. He would be violently opposed to supporting an applicant if there were outstanding code violations. There should be an absolute cut off time for the event, as he had no wish to be called at 2:00 a.m. on New Year's Day with complaints that the music was still going on, so the music must stop at the time stated.

Vice Mayor Sasser understood Commissioner Dodd's concerns, but saw this as involving two different businesses, and Athena had no code violations.

Mayor Minnet pointed out staff's recommendation was for the cut off time to be one o'clock, as opposed to the applicant's request for 1:30 a.m.

Vice Mayor Sasser made a motion to approve Item 11c with staff's recommendation. Commissioner Brown seconded the motion. The motion carried 5-0.

d. Bougainvillea Drainage & Streetscape Project Landscaping (Project Manager Bill Cole)

Vice Mayor Sasser reminded the Commission he voted the last time to cut back on the landscaping, and the reason was to allow the money to be spent on the swales rather than what he felt was overdoing the landscaping. The cost noted in the backup was still over budget and not a significant savings to accommodate the swales; he later realized he had no rendering in the backup, so he knew nothing of the effect his direction to staff. His decision was always around cost savings, but he had no idea of the effect of such cuts, noting Mr. Cole did a good job of reducing the landscape costs by 25 percent, and he wished there could be more reductions, but he needed to see renderings.

Town Manager Hoffmann stated the Town had not commissioned a rendering, but there were plans that showed on a flat surface what plants went where.

Vice Mayor Sasser asked if the plans illustrated the landscaping proposed in the beginning versus what was being done now.

Mr. Cole stated the plans had both before and after the cuts were available for the Commission to review.

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Vice Mayor Sasser felt the Town could get better value for its money in the swale area if a solution could be found that was discussed for quite a while at the last meeting. The Town got more in that area than providing a lush environment on one corner and then it being just black top the rest of the way.

Commissioner Dodd noted the Town was buying 1,337 green island ficus, asking if Town staff could confirm they were Xeriscape plants and were not subject to white fly.

Mr. Cole replied they were Xeriscape. He was unable to comment on whether the ficus plants were white fly resistant.

Commissioner Dodd said it would be a complete waste of the Town's time and money to plant ficus plants that were susceptible to white fly.

Mayor Minnet concurred with Vice Mayor Sasser's request that the landscape portion of the project be examined further to see if any further cost modifications were possible. She asked if Vice Mayor Sasser wished to defer the vote on the subject item to a December Commission meeting.

Town Manager Hoffmann indicated this portion of the project would be the last to go in.

Commissioner Sasser wished to make a motion directing staff to prepare visuals for the Commission of the original, lush landscape versus the 25 percent reduction in cost landscape currently before the Commission. Therefore, at the December meeting there should three options from which the dais would choose.

Mayor Minnet requested a clarification that Washingtonia was not included in the original renderings, as she thought it was added later.

Town Manager Hoffmann affirmed Washingtonia was not in the original plan, noting the Town Commission asked staff to add the landscaping on Washingtonia.

Mr. Cole asked if Town staff was being directed by the Commission to landscape both streets for the original budget of one street, as this would require paring down the landscaping in both streets to get back to the original budget.

Commissioner Dodd inquired as to the progress of Town staff's research into the cost for the colored asphalt.

Mr. Cole noted inquiries had been sent out to a number of companies, and none responded regarding the tinted or colors asphalt.

Vice Mayor Sasser made a motion to defer Item 11d with the clarification stated above. Commissioner Dodd seconded the motion. The motion carried 5-0.

- e. Application for three Hardship Parking Permits for FY13 from the Sea Cliff Apartments located at 4201 El Mar Drive (Assistant Town Manager Bud Bentley)

Approved on consent.

- f. Application for Four Hardship Parking Permits for FY13 from Zenon Marzec, 4208 N. Ocean Drive (Assistant Town Manager Bud Bentley)

Approved on consent.

Recess/Reconvene

12. ORDINANCES – PUBLIC COMMENTS

1. Ordinances 1st Reading

None

b. Ordinances 2nd Reading

- a. **Ordinance 2012-13: AN ORDINANCE THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 20, "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE II, "SANITARY SEWER SYSTEM," SECTION 20-19 "RATES AND CHARGES", AND SECTION 20-23 "DEFINITIONS" IN ORDER TO ADOPT REVISIONS TO THE SCHEDULE OF RATES AND CHARGES FOR SANITARY SEWAGE COLLECTION, TRANSMISSION AND DISPOSAL; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. (FINANCE DIRECTOR TONY BRYAN)**

Mayor Minnet opened the discussion for public comment.

Arthur Franczak remarked the proposed ordinance, if passed, would involve a methodology that would result in a sewer bill based mostly on water usage, basically industry standard and much different from what the Town was doing now. It was difficult to oppose the ordinance on that aspect, and it was some improvement. However, he reminded the Commission two years ago when the process began, the existing methodology was based on water usage, so he saw little difference in what the Commission was now trying to pass and it seemed much time and money had been wasted. He questioned why the Town needed to institute a 68 percent increase over a period of two years if the Pompano rate had not gone up, and was the increase a result of questionable management decisions.

Mayor Minnet closed the public comment portion of the discussion after receiving no input.

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Finance Director Bryan addressed comments pertaining to the volumetric rate being charged, the \$5.13 versus \$3.46, stating the resident's comment seemed to imply the volumetric rate was going solely to fixed variable costs. It also implied there was a one-to-one ratio between what the Town charged per gallon of wastewater versus what was billed to the Town, and this was incorrect. He noted it was a sliding scale as to how much the consultant allotted to the fixed portion of the Town's costs, and to the variable costs. The new rate structure decreased significantly the monthly fees to cover fixed cost, as the backup information showed, so the variable component had to increase to offset the loss of revenue. The overall revenue the Town would collect under the proposed sewer rates was ten percent less than what was being collected overall.

Town Manager Hoffmann remarked one should not look at any one piece of the rate structure, rather it was necessary to look at all the pieces to do a fair comparison, and there were three pieces: the fixed charge, the \$1.31 a month for billing, and the volumetric charge. The increase in the volumetric charge was the Town's response to citizen requests that they should pay based on usage. She clarified Pompano did not just charge the Town \$2 per gallon; Pompano also charged the Town a substantial amount of money for fixed components.

Commissioner Brown explained his decision to support the proposed ordinance, stating the Town did not have its own sewer treatment plant, and that made the Town a captive of Pompano. Pompano charged the Town whatever they wanted, and the Town had to pay the bill; the only area there was any maneuverability was how to divide the bill between the condominiums, restaurants, hotels, businesses and single-family homes. He believed, at this point, the data was so precise, the Town had no grounds to change the methodology Burton recommended to the Town anymore. Two points made by Mr. Franczak that he wished to follow up on were: 1) how much money did the Town need to put away in the sewer fund reserve? If the sewer fund reserve reached \$2 million, he was willing to waive a portion of the sewer bill for a set period time to ensure too much money was not being put away. 2) The condominiums in Pompano should be fighting against the Pompano rate structure, and he intended meeting with the Vice Mayor of Pompano to ask him if he was willing to take a look at the issue.

Vice Mayor Sasser pointed out the Town had infrastructure repairs for its sewer system, and the Town paid Fort Lauderdale to bill Lauderdale-By-The-Sea residents. He continued to feel it was a difference in philosophy, and he preferred to take less now and go up as the Town incurred increases from Pompano, and he thought the Town was taking too much. During the next budget season, he would advocate to look more closely into that matter.

Mayor Minnet inquired if this matter was revisited each year.

Town Manager Hoffmann affirmed the sewer rates were looked at during the budget process each year. Burton suggested there be no change in rates in 2013, but in the following years, there would have to be a small increase.

Finance Director Bryan concurred, stating after 2013 Burton's analysis indicated there would need to be a three and a half percent increase every year thereafter.

Commissioner Dodd added the proposed ordinance only affected the south end of Town users that fell under the master sewer agreement. Much time and effort had been expended to get the rate structure as equitable as possible across all of the south end, and Town staff achieved as fair a model as possible that should sustain the Town for years.

Commissioner Dodd made a motion to approve Ordinance 2012-13. Commissioner Brown seconded the motion. The motion carried 4-1. Vice Mayor Sasser voted no.

13. RESOLUTIONS – PUBLIC COMMENT

- a. **Resolution 2012-51: A RESOLUTION OF THE TOWN COMMISSION OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING LAND DEVELOPMENT REGULATIONS TO REVISE THE TOWN'S ARCHITECTURAL STANDARDS; PROVIDING FOR ACCEPTABILITY; PROVIDING FOR AN EFFECTIVE DATE. (TOWN PLANNER LINDA CONNORS)**

Mayor Minnet opened the discussion for public comment and closed the public comment portion of the discussion after receiving no input.

Commissioner Dodd made a motion to adopt Resolution 2012-51. Commissioner Brown seconded the motion. The motion carried 5-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

Town Attorney Trevarthen briefly reviewed the quasi-judicial procedures; she asked members of the Commission to disclose any *ex parte* communications and received none. She swore in those persons wishing to speak on the item 14a and 14b.

- a. **Conditional Use Approval 4209 and 4213 Bougainvillea Drive (Town Planner Linda Connors)**

Town Planner Connors mentioned the Town received two separate applications for a conditional use approval from the same property owner, reviewing the details as contained in the backup.

Vice Mayor Sasser remarked if Town staff felt more parking might be needed, the Town should go ahead and accommodate that on the front end.

Town Planner Connors responded she did not believe more parking was needed, as the code required four designated spaces, and in the instance of a two-story building, they would have a driveway. For both buildings, one would be used as a permanent

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residence, while the other would be for guests, and she preferred to see more green space to help with the drainage in the Town.

Vice Mayor Sasser inquired if Town staff was asking the Commission to approve something that was not to code.

Town Planner Connors replied, as this was an existing, nonconforming structure, the goal was to improve the nonconformity, which was acceptable. Thus, Town staff was not asking the Commission to approve violating the Town code, as the buildings were being brought closer to conforming with the code.

Town Attorney Trevarthen concurred with Ms. Connors' findings, stating if the improvement was moving in the direction of total conformance, this was a positive. The code allowed the Town to approve this kind of redevelopment project that fell short of 100 percent conformance.

Town Planner Connors indicated they were balancing parking with aesthetics. This was a very visible property.

Vice Mayor Sasser understood and was pleased with the improvements. He had an issue approving something not 100 percent up to code, as he knew there were other renovations that were being made to conform whether to state code or Town code, and there needed to be consistency in Town staff's recommendations and the dais' vote.

Town Attorney Trevarthen added it was not just one rule to which conformity was gauged, and this made it seem inconsistent, noting there were certain rules that applied to redevelopment of nonconformities under the building code. There were certain triggers under the Town's code related to setback and parking, etc. Then there were things that were based on the built environment. In one scenario, they might propose to make it more conforming, and in another scenario the proposal was to make it less conforming.

Vice Mayor Sasser stressed that the applicant was asking the Town Commission to approve change of use, so they should be required to have 100 percent conformity.

Town Attorney Trevarthen commented if it was the Commission's desire to strike that balance differently and require all parking spaces, this was another possible ruling.

Commissioner Vincent reiterated comments supporting the proposed item made by Town Planner Connors and Town Manager Hoffmann.

Commissioner Dodd noted the Planning & Zoning Board, along with other Town staff recommended approval, and he found their recommendation acceptable. However, he wished to rule out any possibility of the applicant applying for a hardship parking application at some future date.

Town Manager Hoffmann indicated Town staff would add Commissioner Dodd's request as to no approval for any hardship parking request by the applicant for both properties.

Town Planner Connors recommended 90 days for the applicant to secure their permits rather than 60 days; it was correctly stated in the development order, but not so in the staff report.

Mayor Minnet asked if the properties were subject to the Florida Building Code, and how was that code applicable, as this was a remodel.

Town Planner Connors affirmed this was a remodel, as the existing buildings would stand in the footprint of the building with no increase. When they came through for applicants' permits, they would be reviewed by the Florida Building Code. Depending on the amount of the interior, Town staff focused only on the exterior renovations and did not look at the Florida Building Code or how the property could be updated construction wise.

Lynda Zurs' representative concurred, new construction from hence forth would have to conform to the 2010 Florida Building Code.

Town Attorney Trevarthen asked if anyone from the public wished to speak on the subject item and received no input. She redirected the discussion back to the dais.

Town Manager Hoffmann thought Town Planner Connors did a terrific job handling the application, and she thanked the applicant for their willingness to make modifications to their design in accordance with Town staff's architectural review.

Commissioner Vincent made a motion to adopt Item 14a, with the additional requirement that there be no applications for future hardship parking permits. Commissioner Dodd seconded the motion. The motion carried 5-0.

15. COMMISSION COMMENTS

Commissioner Dodd mentioned there was a Hillsboro Inlet meeting, and he thought it was amazing how quickly three governmental agencies gave their approval to the Inlet Commission to alter the permit and pumped sand in the northern direction to repair the Coast Guard beach and the base of the lighthouse. The damage was due to Hurricane Sandy. He attended a Charter Review Board (CRB) meeting and expressed disappointment that members of a political organization total lack of respect in their treatment of volunteers who gave up their time to serve the Commission. Though the CRB requested public input, he was upset by the manner in which many of those opinions were delivered. There were always two readings of any ordinance that proposed changes to the Town Charter, and it was at that time dissatisfaction or support for the changes should be expressed. They were also at liberty to contact any member of the dais to express their opinions and/or vent their anger, rather than doing so against the CRB appointed by the Commission.

Mayor Minnet concurred with the views expressed by Commissioner Dodd as to the CRB. She mentioned the president of the Broward League of Cities challenged residents of Broward County to come together to a call to action to donate one million volunteer hours. Everyone should take a moment, go the Broward Leagues of Cities website and post their volunteer hours.

Commissioner Brown congratulated Eric Yankwitt and Denise Rapaport for the wonderful Thanksgiving Dinner they sponsored at Jarvis Hall the previous week; over 300 people enjoyed a good meal, and some companionship and friendship on Thanksgiving Day. He mentioned they fed over 12,000 people across the County, and this was a huge initiative they were undertaking, and everyone in the Town should be proud, as it was two of the Town's residents that were doing it. He reminded everyone of the many good events coming up: the Menorah lighting on December 9; the Christmas-By-The-Sea celebration on December 12; the fourth in the ongoing series of lectures the community center was presenting in Jarvis Hall would take place on December 13, and would focus on condominium law; on December 15 was Marie White's Christmas Program.

16. OLD BUSINESS

- a. Bougainvilla Project - Amendment to E&M Equipment's Work Authorization
Approved with Amended Transfer to \$25,000 (Project Manager Bill Cole)

Mr. Cole reviewed the proposed project as detailed in the backup.

Town Manager Hoffmann wished to amend item c, where it stated the Town would transfer \$70,000 from the beach bathroom project to the subject project. She did an overview of the project budget, and it appeared, thus far, the Town only needed to transfer \$25,000, as there were still sufficient monies in the project budget. When a determination was made regarding the swale treatment, there might be a need to transfer more money from this account.

Town Manager Hoffmann distributed copies of the current project cost estimate, which included the landscaping portion which the Commission deferred a decision on earlier in the meeting. She reviewed the cost estimate as detailed in the handout, noting what was unknown at present was the cost of the swale treatment. Mr. Cole was in the process of getting cost estimates for a less expensive swale treatment that, though greatly limited, would still have an impact. She hoped to have those costs ready for the next meeting to discuss and decide on the landscaping portion of the project.

Mayor Minnet summarized the motion for approval would be to amend with items a and b as presented, and item c would reflect a transfer of \$25,000.

Commissioner Dodd made a motion to approve with the change as noted above to item c. Commissioner Vincent seconded the motion. The motion carried 5-0.

Town Manager Hoffmann pointed out, now that the above item was approved, Town staff would process with the change order to the contractor, and the plan was to redo the road south of Washingtonia next month.

b. Award of Construction Contract to Di Pompeo Construction Corporation for the Median Parking on Bougainvillea Drive South of Commercial (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley went over the proposed project, as illustrated in the backup, noting staff recommended approval. This was something the Town could begin building almost immediately.

Commissioner Vincent made a motion to approve. Commissioner Brown seconded the motion. The motion carried 5-0.

17. NEW BUSINESS

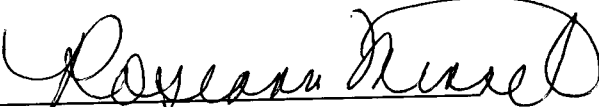
Town Manager Hoffmann reminded the Commission there would be a special Commission meeting on Tuesday, December 4, 2012, on the strategic plan.

Town Attorney Trevarthen reminded the Commission the CRB was meeting on December 3, 2012, at which there would be further discussion on the land use article, elections and Article 5.

Mayor Minnet received a Commission consensus for the special Commission meeting on December 4th to commence at 6:30 p.m.

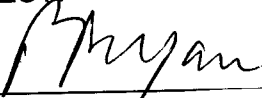
18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:25 p.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk,

3/19/13
Date